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09/627,637	07/28/2000	Kenichi Oinoue	P/3541-6	2855

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EXAMINER

GENCO, BRIAN C

ART UNIT	PAPER NUMBER
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2615

DATE MAILED: 05/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/627,637

Applicant(s)

OINOUE, KENICHI

Examiner

Brian C Genco

Art Unit

2615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-5 and 7-16 is/are pending in the application.
- 4a) Of the above claim(s) 16 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9 and 10 is/are allowed.
- 6) ☒ Claim(s) 2-5, 7, 8 and 11-15 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

Applicant's amendment filed February 10, 2004 has been fully considered by the Examiner but is not deemed persuasive.

Applicant's arguments with regards to the Hull reference will be addressed in the grounds of rejection presented below.

Allowable Subject Matter

Claims 9 and 10 are herein deemed allowed over the prior art of record. Note Paper No. 4 for the reasons for allowance.

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 2-5 and 7-15, drawn to wirelessly transmitting image information in accordance with whether it is detected that a memory capacity of a recording medium has reached a predetermined capacity value, classified in class 348, subclass 231.99.
- II. Claim 16, drawn to reducing an amount of transmission data from a camera to a base station when an electronic field of the base station is weaker than a predetermined value, classified in class 370, subclass 229.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as transmitting image

Art Unit: 2615

information in accordance with whether it is detected that a memory capacity of a recording medium has reached a predetermined capacity value. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Newly submitted claim 16 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons given above

Since applicant has received an action on the merits for the originally presented invention I, invention I has been constructively elected by original presentation for prosecution on the merits. Accordingly, invention II comprising claim 16 is withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the setting means decreasing the set memory capacity when said judgment means judges that it is impossible to transmit the recorded information must be shown or the feature(s) canceled from the claim(s). Similarly, the setting means to set and reset the set memory capacity must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Examiner's Notes

The official notice presented in the previous action stating that it is well known to include position registration to secure a position to a nearest communication base station automatically and to further transmit to that base station in order to secure the best available signal or the strongest signal was not traversed and is accordingly taken as an admission of fact.

The official notice presented in the previous action stating that it is well known to receive a communication completion signal so as to ensure successful transmission of data before erasing the data so as to avoid the risk of destroying forever the data was not traversed and is accordingly taken as an admission of fact.

Specification

The disclosure is objected to because of the following:

Examiner can find no description in the specification for originally presented Claims 9 and 10, namely, "said setting means decreases the set memory capacity when said judgment means judges that it is impossible to transmit the record information" or "said setting means resets the set memory capacity when said judgment means judges that it is impossible to transmit the record information." Examiner notes that as described in the disclosure on page 15, lines 9-13 and again on page 16, line 5-8 that when it is impossible to transmit the recorded information that the process is ended and returned to step S01 of Fig. 3. There does not appear to be any description of decreasing the set memory capacity in the disclosure. There also does not appear to be any description of resetting the capacity when it is impossible to transmit the record information.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 2, 3, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over (USPN 5,806,005 to Hull et al.) in view of (USPN 5,727,047 to Bentley et al.).

In regards to claim 14 Hull discloses an electronic camera system comprising:

an electronic camera including a record medium having a memory capacity (e.g. element 12 of Fig. 1 wherein the memory 24 inherently has a capacity; column 2, lines 5-8), a detection arrangement operable to detect whether the memory capacity of the record medium reaches a predetermined capacity value (e.g., a user may detect the memory capacity and determine when the capacity reaches a predetermined capacity value, namely full capacity; column 3, lines 4-5 and 18-22), and a first interface operable to transmit and receive the image information (e.g., between elements 24 and 26 of Fig. 1), the electronic camera being operable to obtain the image information by a shooting and to record the image information on the record medium (e.g., Fig. 1); and

a communication unit including a second interface operable to transmit and receive the image information to and from the first interface of the electronic camera (e.g., element 28 of Fig. 1), a wireless communication arrangement, and a transmission control arrangement operable to cause the wireless communication arrangement to wirelessly transmit the image information in accordance with whether the detection arrangement detects that the memory capacity of the record medium reached the predetermined capacity value (e.g., column 3, lines 4-5 and 18-28).

Hull does not disclose nor preclude that the detection arrangement or the wireless communication arrangement be done automatically. Bentley discloses that if an answering

Art Unit: 2615

machine reaches a predetermined memory capacity, namely 50%, that if it is detected that a computer is connected, i.e., by detecting that the computer is powered on, the data from the answering machine is automatically transferred to the computer (e.g., column 27, lines 8-17; Fig. 4). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have automated Hull's process of transferring data to coincide with the teaching of Bentley in order to have an automated process so as to avoid the memory being at capacity due to the user forgetting to transfer images.

In regards to claim 2 Examiner notes that in accordance with whether the detection arrangement detects that the memory capacity of the record medium reached the predetermined capacity the image data is transmitted as explained above. Examiner notes that Hull discloses resetting a flag on image blocks that have been successfully transmitted, thereby effectively erasing the image data and increasing the capacity of the record medium (e.g., column 3, lines 28-34).

In regards to claim 3 Hull discloses the electronic camera system according to claim 14, wherein the communication unit includes a measurement arrangement operable to measure a communication environment via the wireless communication arrangement (e.g., Hull's invention discloses a pinging operation to determine if the server is available for transfer of image data; column 2, lines 50-58), and a second setting arrangement operable to adjust an amount of the image information to be continuously transmitted in accordance with the communication environment measured by the measurement arrangement (e.g., if the server is not available then the amount of the image information to be continuously transmitted is adjusted to be zero).

In regards to claim 15 see Examiners notes on the rejection of claim 14. Note that the claimed setting arrangement operable to set a predetermined capacity value assigned to the

Art Unit: 2615

record medium is inherent in that the capacity value is set according to the manufacture of the recording medium. For example, a 32MB memory would inherently have a capacity value of 32MB as set by the manufacturer of that memory.

In regards to claim 7 see Fig. 1.

In regards to claim 8 it is well known to include position registration to secure a position to a nearest communication base station automatically and to further transmit to that base station in order to secure the best available signal or the strongest signal. Official notice is taken. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have included position registration to secure a position to a nearest communication base station automatically and to further transmit to that base station in order to secure the best available signal or the strongest signal.

In regards to claim 11 it is well known to receive a communication completion signal so as to ensure successful transmission of data before erasing the data so as to avoid the risk of destroying forever the data. Official notice is taken. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have received a communication completion signal so as to ensure successful transmission of data before erasing the data so as to avoid the risk of destroying forever the data.

Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over (USPN 5,806,005 to Hull et al.) in view of (USPN 6,418,324 to Doviak et al.).

In regards to claim 4 Hull does not disclose nor preclude the transmission control arrangement is operable to connect to a plurality of wireless communication systems having different rate systems.

It is known in the art to enable wireless transmission devices to connect to a plurality of wireless systems with different rates. Doviak discloses a method for wireless communication between a remote device and a host system. Doviak discloses the RF communication interface module may include more than one modem if multiple data rates are required. Optionally the modem can be implemented using software wherein the modem can be changed by uploading new parameters in order to allow communication with a plurality of different types of radio infrastructures having distinct protocols and data rates (column 25, lines 52-65). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Hull's invention to have included Doviak's multiple modems or software updating routine in order to enable a wireless transmission device to connect to a plurality of wireless systems having distinct protocols and data rates.

In regards to claim 5 note that Doviak discloses a router core for making all routing decisions based generally on network speed and interface availability (e.g., Fig. 30; column 33, lines 57+). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have used Doviak's router core in order to enable proper selection of wireless system based on network speed and interface availability. Note that based on Hulls teachings, transmission is initiated based on capacity of the image information.

In regards to claim 12 and 13 see Examiners notes on the rejections above.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian C. Genco who can be reached by phone at 703-305-7881 or by fax at 703-746-8325. The examiner can normally be reached on Monday thru Friday 8:30am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Christensen can be reached on 703-308-9644. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the customer service office whose telephone number is 703-308-4357.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Application/Control Number: 09/627,637
Art Unit: 2615

Page 10

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Examiner
Art Unit 2615

May 3, 2004



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